

Before the
Federal Communications Commission
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	MM Docket No. 97-178
)	RM-8329
Amendment of Section 73.202(b))	RM-8739
Table of Allotments)	
FM Broadcast Stations)	
(West Hurley and Rosendale,)	
New York, North Canaan and)	
Sharon, Connecticut))	

TO: The Chief, Allocations Branch

**REPLY COMMENTS ON NOTICE OF PROPOSED
RULE MAKING AND ORDER TO SHOW CAUSE**

Aritaur Communications, Inc. ("Aritaur"), by its attorneys and pursuant to Section 1.420 of the FCC's Rules hereby files its Reply Comments on the "*Notice of Proposed Rule Making and Order to Show Cause*" (herein "*NPRM*," DA 97-1697, released August 15, 1997, in the above-captioned docket. In support whereof, the following is shown:¹

Preliminary Statement

Raymond A. Natole has requested the allotment of Channel 255A to West Hurley, New York. Sacred Heart University, Inc. ("SHU") has proposed the allotment of Channel *277A to North Canaan, Connecticut, as a reserved noncommercial educational channel. To accommodate the allotment of Channel *277A to North Canaan, SHU proposes to substitute Channel 273A for 277A at Sharon,

¹ Reply Comments are due by October 21, 1997, thus, these Reply Comments are timely filed.

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Connecticut, and Channel 255A for Channel 273A at Rosendale, New York. Aritaur is an applicant for construction permit for a new FM station to operate on Channel 273A at Rosendale that would be required to amend its application if Channel 255A were allotted to Rosendale. On October 6, 1997, Aritaur filed Comments in this proceeding supporting the allotment of Channel 255A to West Hurley, New York. Comments were also filed by Historic Hudson Valley Radio, Inc. ("HHV"), Eric P. Straus, Radio South Burlington, Inc., Raymond A. Natole, and Sacred Heart University, Inc. ("SHU").

North Canaan Does Not Appear to Be Community for Allotment Purposes

HHV argues that West Hurley is not a community for allotment purposes, and supplies evidence to support its position which Aritaur will not attempt to refute. Aritaur showed that there is a substantial question as to whether North Canaan is a community for allotment purposes, and provides additional information to support that proposition. Attachment 1 is a color copy of a portion of the "Official Tourist Map" of Connecticut that shows the Town of North Canaan in the northwestern corner of the state, containing the communities of Canaan, Canaan Valley, East Canaan and Sodom. North Canaan Town is bordered on the North by the state of Massachusetts, on the West by the town of Salisbury, on the South by the Town of Canaan, and on the East by the Town of Norfolk. Those towns appear to be subdivisions of Litchfield County. Attachment 2 is a copy of a portion of the "Official Tourist Map" providing an "Index to Towns" that includes North Canaan, and an "Index to Cities, Villages and Boroughs" that does not include North Canaan.

This supports the question raised by Aritaur in its earlier Comments as to whether North Canaan is a community for allotment purposes. It is significant, since if North Canaan is such a community, its 1990 population would be significant, i.e., 3,284, whereas if the "community" that should have been selected for allotment purposes is Canaan, its population would be only 1,194, smaller than West Hurley with 2,252 persons, and not the preferred community under the FCC's analysis rubrics.

Thus, a serious question remains as to the *bona fides* of North Canaan as a community for allotment purposes. By Report and Order, *Hayfield, Virginia*, DA 97-2149, released October 17, 1997, the Commission refused to allot an FM channel to Hayfield, Virginia, because it was shown that Hayfield, Virginia, did not have the attributes associated with community status. So far, SHU has not made a showing to support a finding of such status, other than a very spare recital that such attributes exist. Unless SHU, in Reply Comments can make a conclusive showing otherwise, no channel should be allotted to North Canaan, Connecticut.

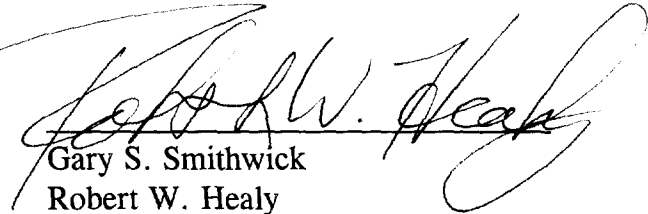
Conclusion

It may be that Channel 255A cannot be allotted to either West Hurley or North Canaan. Therefore, as previously stated, in light of the questions as to whether either is community for allotment purposes, and the burden imposed on ten applicants that would arise by allotting Channel 255A to Rosendale, Aritaur urges the Commission to allot Channel 255A to West Hurley, New York, if it allots the channel, but not to allot it to Rosendale and require the applicants to change their proposals to operate on the new channel.

Respectfully submitted,

ARITAU COMMUNICATIONS, INC.

By:

A handwritten signature in black ink, appearing to read "Robert W. Healy", written over a horizontal line.

Gary S. Smithwick

Robert W. Healy

Its Counsel

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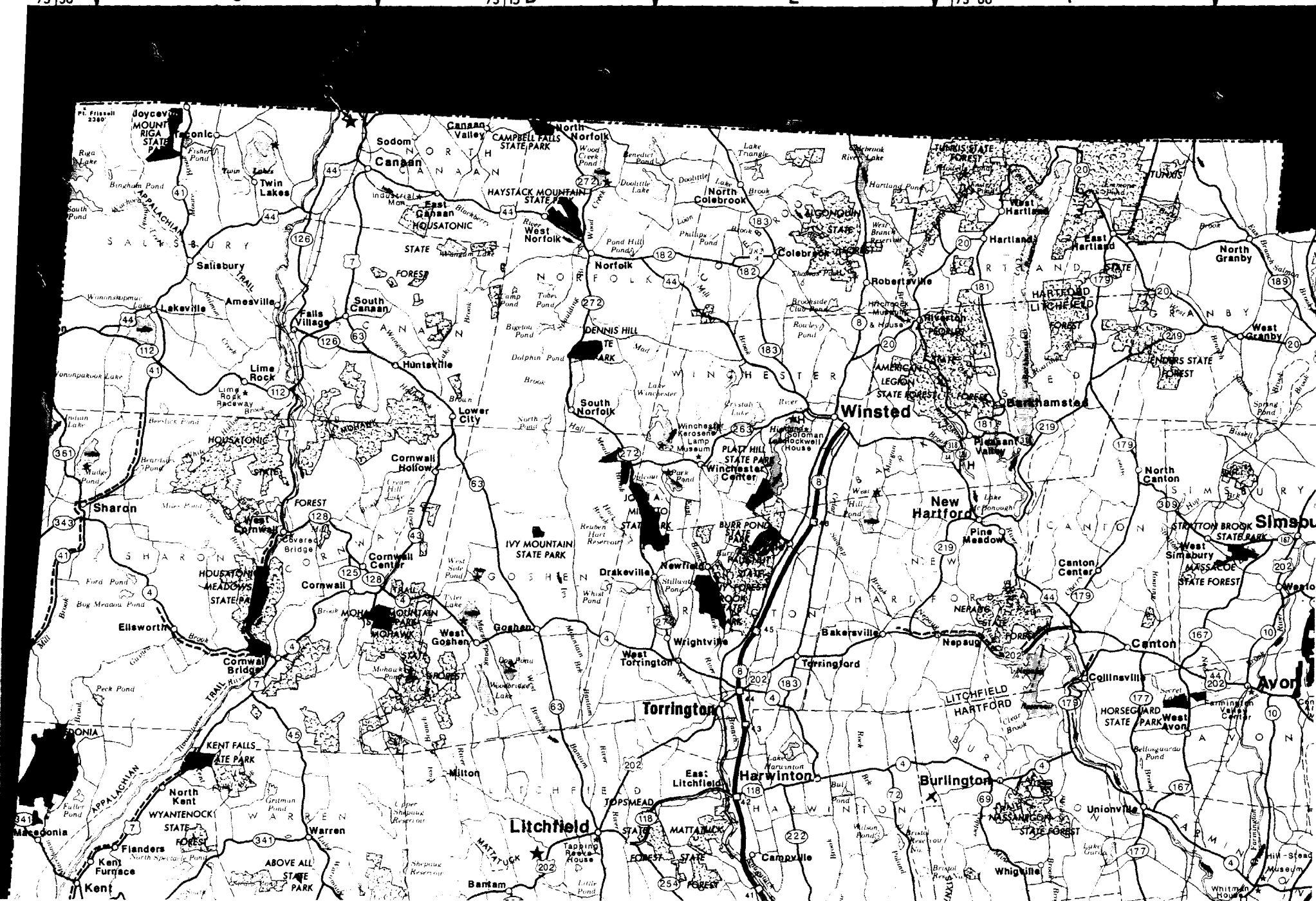
(202) 785-2800

October 21, 1997

ATTACHMENT 1

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ATTACHMENT 2

CONNECTICUT

1995

TRANSPORTATION

- Multilane Divided Highway
- Access Fully Controlled
- Scenic Roads
- Multilane Divided Highway
- 2 Lane Highway
- Access Fully Controlled
- Paved Highway
- Paved Connecting Roads
- Unimproved Connecting Roads
- Roads Under Construction
- Full Interchange
- Partial Interchange
- Railroad
- Hiking Trails
- Ferries

MARKERS BOUNDARIES

- Interstate Route
- U.S. Route
- State Route
- Interchange Numbers
- County Line
- State Line
- Town Line

SCALE OF MILES



POPULATION

HARTFORD	Over 100,000
Hamden	50,000 to 100,000
Norwalk	25,000 to 50,000
Darien	10,000 to 25,000
Oxford	5,000 to 10,000
Pomfret	2,500 to 5,000
Chaplin	Under 2,500

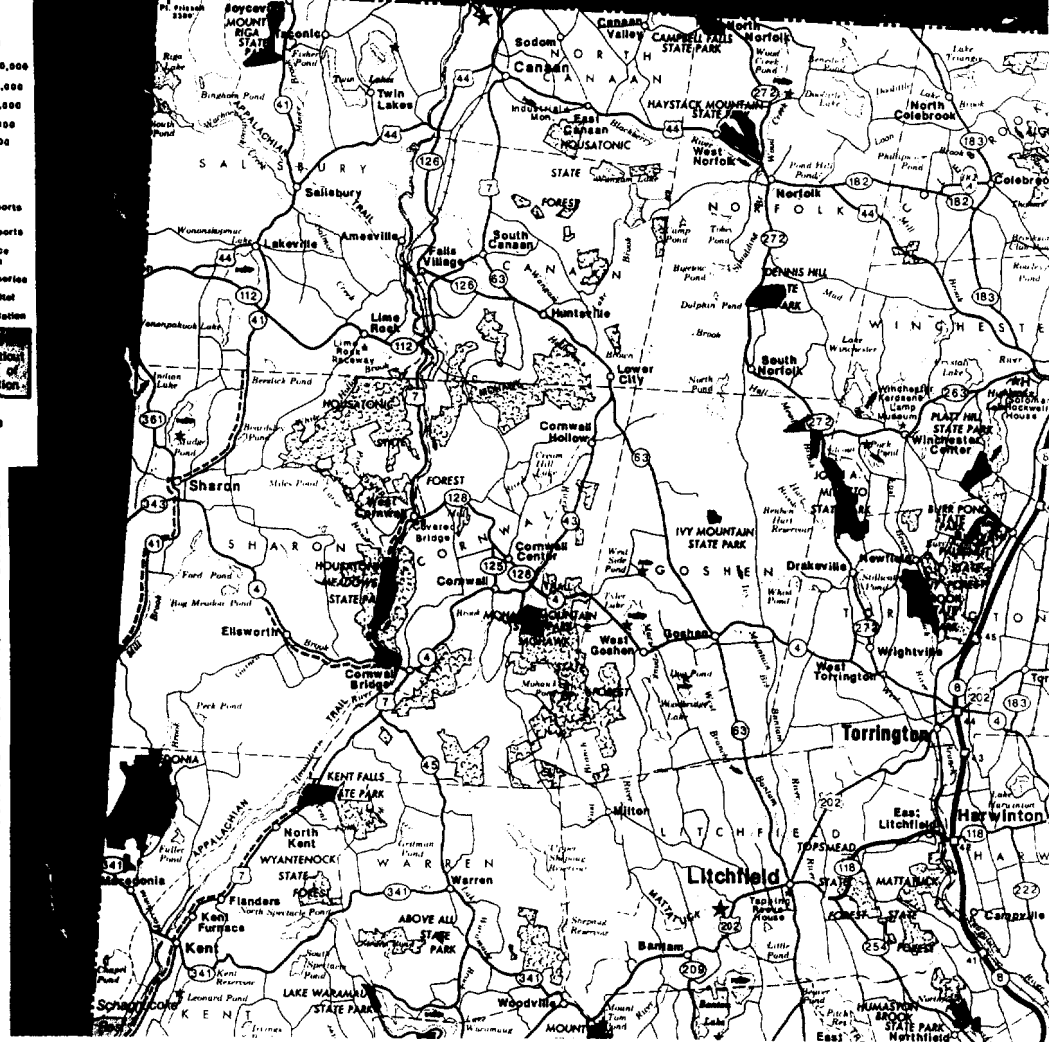
SPECIAL FEATURES

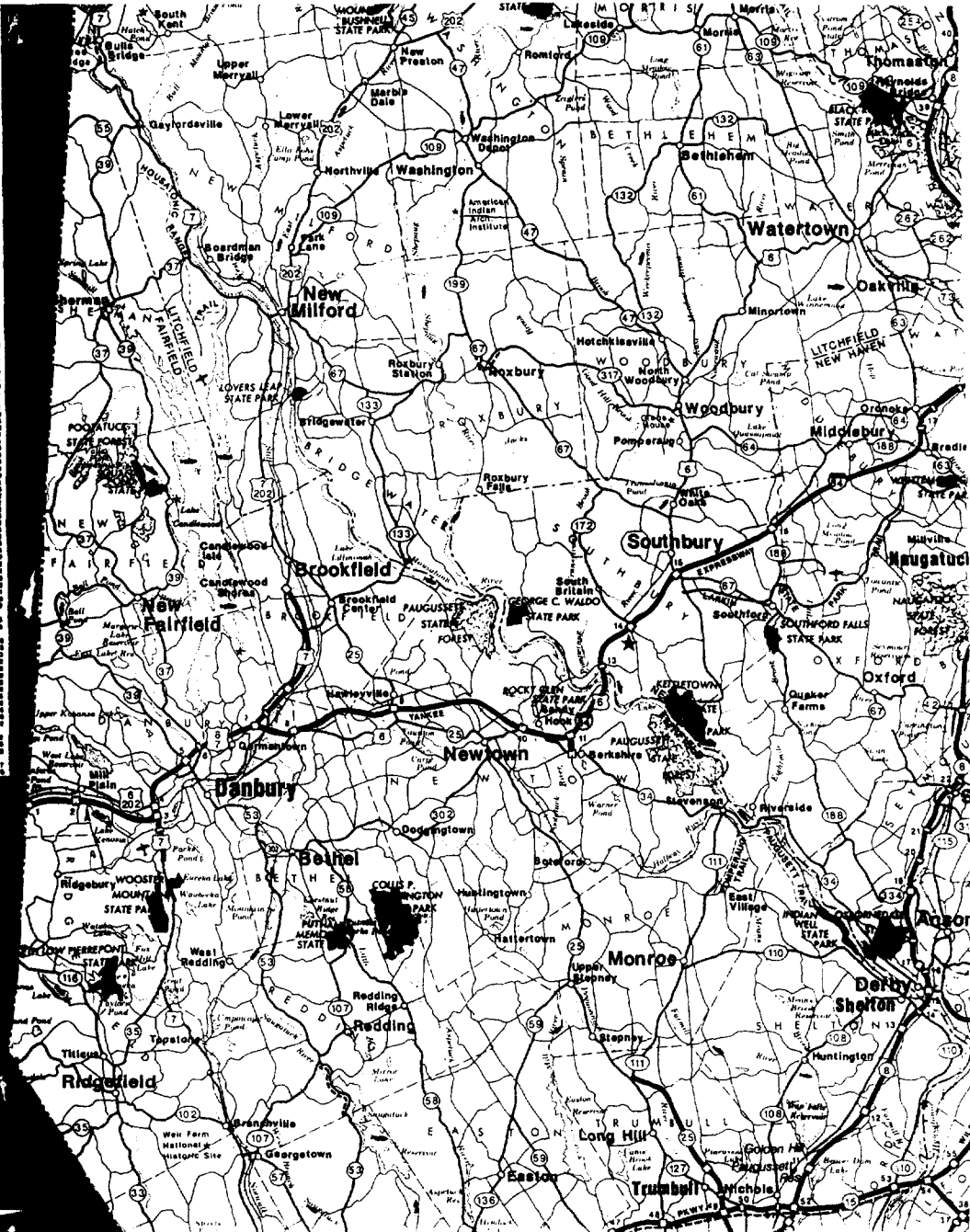
- State Parks
- State Forests
- Information Centers
- Points of Interest
- Public Service Areas
- Public Boat Launching
- Public Fishing
- Hunting
- State Park Trails
- Indian Land Tracts
- Major Airports
- Other Airports
- State Police
- Barracks
- Fish Hatcheries
- State Capital
- Railroad Station

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INDEX TO TOWNS

Andover	K4	East Haven	F6	Meriden	D6	Shelton	E8
Ansonia	E8	East Lyme	K6	Middlebury	L7	Shelton	E8
Ashford	L3	Easton	D9	Morris	D5	Shelton	E8
Avon	G4	East Windsor	H3	Naugatuck	E7	Somers	J2
Barkhamsted	F1	Enfield	H2	New Britain	G5	Southbury	D7
Bassett Falls	E7	Essex	J6	New Canaan	B10	South Windsor	H3
Berlin	D8	Fairfield	D10	New Fairfield	B7	Stafford	K2
Bethany	F7	Farmington	D4	New Hartford	F1	Stamford	B11
Bethel	D9	Franklin	L6	New Haven	F9	Stamford	B11
Bethlehem	D5	Frederick	L6	Newington	D6	Stamford	B11
Bloomfield	D3	Groton	D2	New London	L9	Stamington	H8
Bolton	L6	Greenwich	A11	New Milford	C6	Stamington	H8
Bridgeport	D10	Groton	D2	North Andover	D8	Stamington	H8
Bridgewater	C6	Hamden	H4	North Canaan	D1	Thompson	M2
Bristol	F6	Hartford	F1	North Haven	D4	Tolland	K3
Brookfield	C7	Hartford	F1	Northford	D7	Torrington	E3
Brooklyn	M4	Hartford	F1	Northford	D7	Trumbull	D9
Burlington	F4	Hartford	F1	Northford	D7	Union	L2
Canaan	D2	Hartford	F1	Northford	D7	Union	L2
Canterbury	M5	Hartford	F1	Northford	D7	Union	L2
Canterbury	M5	Hartford	F1	Northford	D7	Union	L2
Chaplin	L4	Hartford	F1	Northford	D7	Union	L2
Cheshire	F8	Hartford	F1	Northford	D7	Union	L2
Chester	J8	Hartford	F1	Northford	D7	Union	L2
Clinch	J8	Hartford	F1	Northford	D7	Union	L2
Colebrook	K6	Hartford	F1	Northford	D7	Union	L2
Columbia	K6	Hartford	F1	Northford	D7	Union	L2
Cornwall	C3	Hartford	F1	Northford	D7	Union	L2
Covey	K4	Hartford	F1	Northford	D7	Union	L2
Cromwell	M6	Hartford	F1	Northford	D7	Union	L2
Danbury	C8	Hartford	F1	Northford	D7	Union	L2
Darien	B11	Hartford	F1	Northford	D7	Union	L2
Deep River	B11	Hartford	F1	Northford	D7	Union	L2
Derby	B9	Hartford	F1	Northford	D7	Union	L2
Durham	H7	Hartford	F1	Northford	D7	Union	L2
Eastford	L2	Hartford	F1	Northford	D7	Union	L2
East Granby	D2	Hartford	F1	Northford	D7	Union	L2
East Hampton	J8	Hartford	F1	Northford	D7	Union	L2
East Hartford	H4	Hartford	F1	Northford	D7	Union	L2



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CERTIFICATE OF SERVICE

I, Patricia A. Neil, a secretary in the law offices of Smithwick & Belendiuk, P.C., hereby certify that copies of the foregoing Comments on Notice of Proposed Rule Making and Order to Show Cause were delivered by first-class mail, postage prepaid, mailed this the 21st day of October, 1997 to the following:

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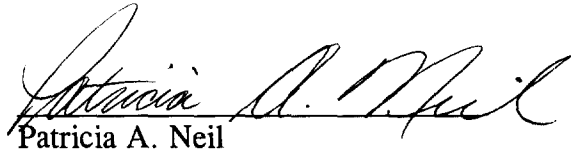
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